

## FISCAL NOTE

### SB 3455 - HB 3539

February 24, 2004

**SUMMARY OF BILL:** Enacts the Industrial Loan and Thrift Companies Act (TILT Act) and the Residential Lending, Brokerage and Servicing Act (Mortgage Act), which among other things:

1. Adds the following new definitions to the Mortgage Act:
  - Mortgage Loan Broker* – clarifies and establishes what is mortgage brokering activity;
  - Mortgage Loan Originator* – requires that mortgage loan originators be supervised by and under the responsible charge of one mortgage loan broker;
  - Managing Principal and Branch Manager* – states that managing principal agrees to be responsible for the operations of the licensee/registrant and that branch manager is responsible for the operations of a branch office.
2. Authorizes the Commissioner of Financial Institutions to:
  - charge the actual expenses for an examination;
  - order a person to make refunds to a customer for interest, fees and charges collected in violation of the Mortgage Act.
  - order civil penalties against a person for violating the Mortgage Act, up to \$10,000 for each violation.
  - after notice and opportunity for a hearing, suspend/bar an individual not only from any position with any registrant/licensee under the Mortgage Act, but also any position with any person subject to the commissioner's jurisdiction.
  - enter into consent orders at any time with any person to resolve any matter arising under the Industrial Loan and Thrift Act and to issue an emergency order in extraordinary circumstances and a subsequent hearing.
3. Adds new language to the Mortgage Act requiring:
  - each principal and branch office of a mortgage lender or mortgage loan broker to have a manager who has sufficient experience in the mortgage lending industry to operate the business lawfully. Mortgage lender or mortgage loan broker must file a form with the commissioner designating the managing principal and branch manager and notify the commissioner within 14 days of any change in such designation.
  - any individual who provides services as a mortgage loan originator for a licensee/registrant to be registered with the commissioner in affiliation with that licensee/registrant.
  - Sets forth a registration process, which includes the filing of a registration form and fee. States the process for renewal of the registration certificate, which requires a renewal fee. Provides the manner by which a licensee/registrant, mortgage loan originator shall maintain the registration certificate. Requires the commissioner to keep a roster showing the names of all mortgage loan originators and the licensee/registrant for whom the licensee/registrant provides services.

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- Specifies that a licensee/registrant is responsible for and shall supervise the acts of a mortgage loan originator. Provides that a mortgage loan originator cannot act on behalf of a licensee/registrant during any period of suspension or revocation of a licensee's license or certificate of registration.
  - Authorizes the commissioner to assess a licensee/registrant, whose license or certificate of registration has been lost, a fee, for a substitute license or certificate of registration.
4. Adds language to the Industrial loan and Thrift Companies Act by authorizing the Commissioner of Financial Institutions to assess fees, order a person to make refunds, order civil penalties, suspend/bar individuals not only from any position, but also from any position with any other person subject to the commissioner's jurisdiction, enter into consent orders.
  5. Changes the name of the Industrial Loan and Thrift Companies Division to the Compliance Division and states that the Commissioner of shall have minimum of 3 years experience in a full-time management or regulatory capacity in the operation and function of financial institutions.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenues - \$1,611,900**

**Increase State Expenditures - \$1,552,200**

**\$59,700 One-Time**

Revenue estimate assumes:

- increase existing exam fee from \$175 to \$270.36 (\$95.36)
- 56 working days x 14 examiners x \$95.36 = \$74,762
- increase existing exams to actual cost from \$250 to \$270.36 (\$20.36)
- 21 working days x 14 examiners x \$20.36 = \$5,985.84
- new revenue from 10 new examiners working 190 days dedicated to mortgage cost x \$270.36 = \$513,684
- assumes 700 substitute license x \$25 fee = \$17,500
- \$100 fee for 10,000 mortgage originators = \$1,000,000

Expenditure estimate assumes the Department of Financial Institutions will need 27 positions and related expenses to enforce the provisions of this bill.

**CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director